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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

A-6237 (191930-1170)

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Application Number

09/729,523

Filed

December 4, 2000

First Named Inventor

Bacon, et al.

Art Unit

2131

Examiner

Sherkat, Arezoo

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☐ attorney or agent of record.

Registration number _____

☒ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

58169



Signature

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Telephone number

January 16, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.



*Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Bacon, et al.

Serial No.: 09/729,523

Filed: December 4, 2000

Confirmation No.: 4555

Group Art Unit: 2131

Examiner: Sherkat, Arezoo

Docket No.: A-6237 (191930-1170)

For: **Method of Identifying Multiple Digital Streams within a Mutlplexed Signal**

REMARKS IN SUPPORT OF
PRE-APPEAL BRIEF CONFERENCE

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicants submit the following remarks in support of a Request for a Pre-Appeal Brief
Conference.

REMARKS

Claims 1-4, 9-20, 22, 23 and 28-30 are rejected under 35 U.S.C. 112, first paragraph, as allegedly failing to comply with the written description requirement. Claims 1-4, 9-20, 22, 23 and 28-30 are rejected under 35 U.S.C. 102 (b) as allegedly being anticipated by *Chaney* (U.S. Patent No. 6,035,037). Claims 2, 10, 12, 15, and 19 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over *Chaney* (U.S. Patent No. 6,035,037) in view of *Hurst, Jr.* (U.S. Patent No. 6,985,188). Applicant traverses these rejections and respectfully submits that the rejection of record is clearly not proper.

Specifically, Applicant submits that the following clear legal deficiency exists in the rejection. Applicant respectfully submits that identifying a packet based on the packet's type or sub-stream does not disclose assigning a unique designator to the source device of a data stream. The Office Action equates identifying the type of packet in a data stream to identifying the source device of a packet in a data stream. Identifying a type of packet refers to whether a packet is an audio, video, or data packet. Conversely, assigning a unique designator to a source device may include identifying the tuner from which a stream of packets emanates, as a non-limiting example. One of ordinary skill in the art would not equate this unique tuner identification with identifying whether a packet contains audio, video, or data. For example, several packets may be of the same type and emanate from different source devices. In a system that identifies a packet by type, packets sent from multiple sources, but being the same type of packet, would have the same designator. Additionally, multiple packets of different types emanating from the same source would have different designators. Clearly, this packet-type identification fails to teach a unique source identification system.

Applicant respectfully submits that “***assigning to the source device of the at least one packetized data stream, a first unique designator***” from claim 1 (and similarly recited in claims 9, 11, 14, 18, and 28) is not taught by *Chaney* or any of the references of record. Although Applicant believes claims 1, 9, 11, 14, 18, and 28 to be patentably distinct, the clear errors in rejecting similar elements for these claims are presented together in this section to facilitate the review.

The Advisory Action alleges that

Chaney discloses the output signal of tuner 100, monitored by FEC 100, is processed by the transport unit 120. This signal fdepicted [sic] in Figure 3 comprises a stream of data organized in packets of data bytes, i.e., “packetized data”. Each packet is associated with a particular TYPE or SUB-STREAM, of information in the tuned channel’s [sic] data stream (i.e., wherein a particular TYPE, or SUB-STREAM, of information in the tuned channel’s [sic] data stream corresponds to a unique designator) (col. 4, lines 50-67).

See Advisory Action.

Applicant challenges the Examiner’s statement, implying that *Chaney* teaches assigning a unique designator to the source device of a packetized stream, as clear error. Even if, *arguendo*, *Chaney* discloses identifying packets in a data stream, it certainly does not apply a unique designator to the source device of the packets. It is unclear how designating the type of packetized data corresponds to uniquely designating the source device that a particular packet emanates from.

Chaney clearly fails to disclose the subject matter of the claims. Therefore, since all elements of the claims are not disclosed, taught, or suggested by the references of record, the rejection is improper and should be withdrawn.

CONCLUSION

For at least the reasons set forth above, favorable reconsideration and allowance, or the re-opening of prosecution on the merits of the present application and all pending claims are hereby courteously requested.

Respectfully submitted,

**THOMAS, KAYDEN, HORSTEMEYER
& RISLEY, L.L.P.**

/BAB/

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